

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DAVID E. CALLAHAN,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-03-1434-F
)	
SOUTHWESTERN MEDICAL)	
CENTER, et al.,)	
)	
Defendants.)	

ORDER

This matter comes before the court on “The Objection to Report and Recommendations” filed by plaintiff, David E. Callahan, objecting broadly to Magistrate Judge Bana Roberts’ Report and Recommendation of April 29, 2005. (Objection at docket entry no. 44; Report at docket entry no. 40.)

Plaintiff, a state prisoner appearing pro se, brings this action pursuant to 42 U.S.C. § 1983, alleging constitutional violations and violation of his civil rights under the Americans with Disabilities Act (ADA), the Rehabilitation Act (RA) and the Civil Rights of Institutionalized persons Act (CRIPA). The matter was referred to the magistrate judge for proceedings consistent with 28 U.S.C. § 636(b)(1)(B).

The magistrate judge’s Report recommends a number of rulings. The Report also notes that plaintiff’s motion for an extension of time (docket entry no. 38) has been denied by a separate Order of the magistrate judge, also entered April 29, 2005. (Order, docket entry no. 39.)

Plaintiff, whose pleadings are liberally construed, objects to all of the magistrate judge’s findings and recommendations contained in her Report, as well as to the magistrate judge’s denial of plaintiff’s motion for an extension of time as set forth in the April 29 Order.

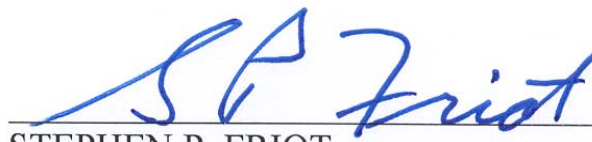
The court has conducted de novo review of all matters addressed in Magistrate Judge Roberts' Report and Recommendation of April 29, 2005, and in her Order of April 29, 2005. *See*, 28 U.S.C. § 636(b)(1). Having done so, the court finds that no purpose would be served by restating the magistrate judge's analysis or the particulars of any of her findings or rulings here.

The court finds and concludes that the Report and Recommendation should be, and hereby is, **ACCEPTED, ADOPTED, and APPROVED** in its entirety. Accordingly, the court makes the following rulings, all of which were recommended by the magistrate judge in her Report.

Defendant Southwestern Medical Center's (SWMC's) motion to dismiss (motion at docket entry no. 23), brought under Fed. R. Civ. P. 12(b)(5), is **DENIED**; SWMC's motion to dismiss for failure to state a claim under the ADA, RA, and CRIPA, is **GRANTED**; SWMC's motion to dismiss for failure to state a claim under § 1983 is construed as a motion for summary judgment and, so construed, is **GRANTED**; the motion to dismiss by defendants John Doe Number One and Two (docket entry no. 24) is **GRANTED**; defendant John Doe Number Three and defendant Dr. Robert Morgan are **DISMISSED**, sua sponte, for failure to correctly identify and timely serve; plaintiff's motions to amend, motions to clarify, and motion for appointment of counsel (docket entry nos. 25, 33, 35, and 36) are **DENIED**.

The court also finds that the magistrate judge's Order of April 29, 2005, denying an extension of time, should be, and hereby is, **AFFIRMED** in its entirety. Accordingly, plaintiff's motion for an extension of time (docket entry no. 38) is **DENIED**.

Dated this 7th day of July, 2005.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE